(192) Department.

SERIES.

G.O. No. 1615

DATED

[Despatch Abstract.]

La (Bellary) Bellary town

Site adjoining Graham's road

Sale by municipal Council

OSURES

Ref. G.C. No. 4145.

Station Bellary. *Dated the* 7th December 1919.

From (Name): A.F.G. Moscardi Esquire, I.C.S.,

(Designation) Collector.

To The Secretary to the Government of Madras,

Local and Municipal Department,

Madras.

Sir,

I have the honour to state that the Chairman Municipal Council, Bellary proposes to dispose by sale of certain surplus sites on either side of the newly-formed road - known as 'Graham's Road' in the Bellary Municipality. He states that he would levy land tax on the sites as they are not liable to ground rent under Art. 55 of the Municipal Account Code in as much as the lands belong to the Municipality having been acquired at the cost of the Municipality for the purpose of laying out the road. It is said that the sites are not required either for the purposes of the

road or for any other purpose by the Municipality.

2. On a reference made from this office in Ref. G.C. 3478 of 1918 dated 24-4-19 in connection with a similar case in Hospet Municipality the Government were pleased to order in G.O. 839 M. Mis. dated 29-5-1919, that any portion of road-margin not required for a road should revert to Government who alone could dispose of it. The only point of difference between the present case and that of the Hospet Municipality is that in the latter case the lands were acquired before the constitution of the Hospet Town into a Municipality and therefore the Municipality derived from Government in regard to the then existing roads merely the usual powers of control over the roads; while in the present case the lands continue to be in the possession of the Bellary Municipal Council having been acquired for that body from the special grants made by Government from time to time. It seems to me that the sites should revert to Government as they were acquired with Government funds for road purposes and are now found unnecessary for such purposes.

3. I solicit orders whether under the circumstances the proposal of the Chairman Municipal Council, Bellary to dispose of the lands free of ground rent and to levy land tax on them may be approved. A copy of the Chairman's letter is enclosed.

I have the honour to be

Sir,

Your most obedient servant,

For Collector.

Copy of letter Ref. G.C.R. No.1481/19 dated 25th October 1919 from the Vice Chairman Municipal Council, 28-10-19
Bellary to the Collector of Bellary.

I have the honour to state that the Graham Road having been completed, the Council have in their Resolution No. 54 dated 18th October 1919, sanctioned the sale of surplu sites on both sides of the road as they will be of no use to the Municipality. These lands were acquired in previous years for laying out of the road by the removal of congestion in the locality. Hence they belong to the Municipality and the levy of assessment or ground rent thereon by you under Art. 55 of the Municipal Account Code will not be necessary. If you agree with me I shall arrange to have them sold in public auction and levy land tax thereon. A list(in 3 pages showing the sites available for sale is herewith sent for your reference and return

Local and Municipal Deptt.

No 8: 10 dt, from the Collector of
Bellary Dis. No 4114

Memorandum No

The Collector of Bellary
requested to submit a sketch showing
the sites refered to in this letter read
above

7.1.20 17.1.20

11.1.20

25-2-20

~~NOTES.~~ Page 116

Encl Ltr 1894 5/20-183-5-20
Ref letter from the C Harbor
& Bellingham Bay C.C. 4145
7-12-19

Referred to the Board of
Revenue for remarks.
A sketch showing the
site referred to in the
C Harbor letter is forwarded
to the Board for reference
& return.

[signature]
3 5 20

REVENUE **DEPARTMENT.**

Subject.

Assessment - Ground-rent (Bellary) - Bellary Municipality - Sites adjoining "Graham's Road" - Board's remarks submitted.

ENCLOSURES.
No.
Spare copies

Resolution **No.** 781 Miscellaneous.

Station Madras, *Dated the* 1st July 1920.

From
J.A. Thorne Esquire, I.C.S.,
Secretary,
The Board of Revenue, Land Revenue.

To
M.E. Couchman Esquire, I.C.S., Commissioner of Land Revenue.

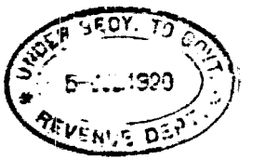
Read:- Government Endorsement No. 1894-D/20-1, Revenue, dated the 3rd May 1920.

R E S O L U T I O N.

The sites in question were acquired by the Bellary Municipality from special grants made by Government from time to time. Such sites fall under class (3) of the classes referred to in paragraph 1 of G.O. No. 1691, Revenue, dated the 6th June 1911 (see G.O.

(see G.O. No. 3768, Revenue, dated the 23rd December 1911) and are subject to the same ground-rent or assessment as was levied on them before acquisition. If they were held free of ground-rent or assessment previous to acquisition, the immunity will ordinarily be allowed to continue; but such immunity is entirely a matter of grace.

(True Extract)



Secretary.

To the Secretary to Government, Revenue Department, with a sketch.

LOCAL & MUNICIPAL **DEPARTMENT.**

3364

Received 16 FEB 1921 *Registered* 154 191

Subject.

Assignment-Bellary Municipality-Graham's Road margins-rights of the Municipality to sell.

Enclosures
No.
Spare copies

Station Bellary., *Dated the* 15th February 1921. 191

Ref. on C.C. No. 4145/19-

DESPATCHED
FEB 1921

From (Name) A.F.C. Moscardi Esq., I.C.S.,

(Designation) Collector.

To The Secretary to the Government of Madras,
Local & Municipal Department.
MADRAS.

Sir,

I request early orders on my letter ref. C.C. 4145/19 dated 7-12-1919 regarding the sale of certain surplus sites on either side of the newly formed road, known as "Graham's Road" in the Bellary Municipality. The Municipality is pressing for early orders.

Local and Municipal Department.
Assignment : Municipality Graham's Road margins, Municipality's right to sell.

G.C.
REFERENCE ~~DIS.~~ No. 4145 F 1919 A-3. Bellary COLLECTOR'S OFFICE.

Dated 23rd June 1921.

FROM

A.F.G. Moscardi Esquire I.C.S.,

COLLECTOR OF

Bellary.

To

THE Secretary to the Government

Local and Municipal Department.

Madras.

SIR,

I request early orders on my letter Ref. on G.C.
ENCLOSURE 4145/19 dated 7-12-19 regarding the sale of surplus sites on either side of the newly formed road known as "Graham's Road" in the Bellary Municipality. The Municipality has been pressing for early orders.

12 Local and Municipal Dept

C.No 8016 / The Collector No 41459.

Subject:— Sale of road margins — Council's rights — Regd.

WD

(Y) Please see the notes and orders in G.O. No 839 dated 29-5-1919. The difference between the case dealt with in this G.O. and the present case is that in the former the land was acquired by the Taluk Board and subsequently handed over to the Municipal Council when it was constituted, while in the latter the land was acquired by the Council itself out of grants made by Govt. Though the cases are not exactly parallel, there seems to be some force in the Collector's argument that as the land was originally acquired out of Govt grants such portion of it as is not required for a road must go to the Credit of Govt. For orders whether the Collector may be informed that the land should in this case be sold by the Council and the sale proceeds credited to Government or whether it will be sufficient to ask the Council to hand over the cost

B 2 14 2

Is there any real technical reason why the sites should not be exploited fully by erecting shops & houses & other revenue producing buildings on them? I find no sketch map on file to show whether the sites would be suitable for such purpose. Why does it not exploit the water advantage

3. 1. 20

4:254 3

Sub sections (v) and (viii) of sec 113 are very widely worded and may perhaps be held to permit a municipal council to invest money in shops or houses of such expenditure tends to directly to benefit of the townspeople

BK
22.1.20

See

I think the ground is amply covered by Rule 34 & 53 of Schedule IV of the Municipalities Bill by sub. clauses vi. & ix of "Rules" 95 of the Local Bds Act; & I think the subjects in viii of Sec 113 of the ex-D.M. Act wd properly come/[illegible] of the Rev. Dept accordingly.

Draft Issue the Memo

BK
25.2.20

[Memorandum No. 8016-1 dt 26.3.20]

enc 2952 m, from Collr of Bellary, Rept. 4145, dt 1.4.20.

Please see the plan received from the Collr and put up in the file for orders.

VL
15.4.20

PRS
12.4.20

See

LS 27414

Local and Municipal Department.

I have numbered the sites in black pencil on the plan.

2. The proposal to sell in public auction the sites marked C, D, B, F, G, H, J, M (except the portion measuring 35½ x 28) N, O, Q, R, S, T, U seems to me preposterous, as (according to the plan) these narrow strips of land lie between dwelling houses and the street and would be of use to nobody except the owners of the houses. It is unlikely therefore that there would be any competitors in a public auction, except persons who wish for some reason to spite the adjacent owners, and such persons obviously should not be encouraged. It is unlikely therefore that a public auction would realise the market value of the land concerned.

I would suggest therefore that these sites should be either sold outright to the adjoining house owners, at a fixed price per square foot to be determined by the Collector, or better still that they should be rented on a permanent rental, the rentals being appropriated by the municipal council. In valuing such sites it should not be forgotten that they are worth probably more per square foot (and certainly not less) than the value of adjoining properties.

4. As regards the sites A and K, I am inclined to think that they should not be built upon, at least if there is any traffic to speak of in Graham Road or along Gold Smith Street, as the buildings on these sites would create blind corners. I would see no objection, however, to the municipal council constructing low paved plinths on these areas, and leasing them at monthly or annual rentals to petty traders, if the locality is suitable for such purposes. If on the other hand there is practically no traffic in Gold

Smith Street and Graham Road and the construction of buildings on these two sites is unobjectionable, I would suggest that it would be more profitable for the municipality to construct shops or houses on these sites and rent them at their annual market value, instead of selling them outright.

5 I would suggest that the municipality should be invited to consider whether it could not itself more profitably exploit sites L, M (the 35½ x 28 portion), and P on the lines suggested for A and K. If funds are not available in the council it should be easy to develop these sites by means of a small short term loan.

6 I would like to make these suggestions demi-officially to the chairman before final orders issue but it is necessary that the Revenue Department should examine the suggestions before I do so.

whether ~~the~~ the Municipal Council should not be required to give up possession of the lands which "are not required for the purpose "of the road or for any other purpose "by the Municipality." These lands were acquired for the Municipality from the special grants made by Govt from time to time - para 2 p 2 of - and they fall under class (2) of - para 1 of G.O. No 1691 of 6-6-1911.

It is submitted that the remarks of the Board of Revenue may be called for in the first instance

A draft endt is submitted for

In G.O. 3768 Revenue dated 23.12.1911 it was held that lands acquired by the local bodies from the recurring grants made by the Govt of India for expenditure on sanitary improvements fell under class (3) of para 1 of G.O. 1691 Revenue dated 6.6.1911. In that connection Sir John Atkinson remarked "The case is clear enough. Govt make over "certain funds to a local body. The funds "become those of the local body, and when the local "body decides to apply any part of those "funds to the acquisition of land the land is "acquired at the cost of the local body." It would thus seem that the surplus sites in question are the property of the local body and that they do not revert to Govt. when they are not required for purposes of a road. The precedent quoted by the Collr. viz, G.O. 839 m. mis dated 29.5.1919 to support the view that the surplus sites should revert to Govt is not a quite appropriate one. There the lands were originally acquired by Govt on behalf of the Hospet Taluk Board and the Govt made them over to the ~~Hospitak~~ Hospet municipality when the municipality was formed. The municipality derived from Govt only the usual powers of control over the roads. If this view be accepted the suggestion of the Secretary, L & M department regarding the disposal of the sites under reference does not call for

any remarks in this department, that the site should be disposed of by the Council subject to the same ground rent or assessment as was levied on them before acquisition. ~~The case may, it is submitted, be returned to Distt with the remarks of this dept.~~

C.R.P. 21.7.20.

The case has however to be disposed of after a final decision has been arrived at on the general principle suggested by HM in the linked file no I.

K.W. 2-8-20.

P/ no objection to Council disposing of the lands subject to payment of ground rent but I do not think that ground rent is chargeable at resettlement rates

H.D.W. 11.8.20

I suppose I know the locality as I inspected it when on Town Planning duty in 1915. The Municipality, ostensibly to improve congestion, drove a road through a crowded portion of the bazaar. As the properties acquired were necessarily of irregular shapes the road when formed has numerous jagged edges. It is a clear case here for laying down a regular line & disposing of the portions which fall on the house side of

the time by sale. The sale should be usually I think not by public auction but by private sale to the adjoining owners The only question which concerns Revenue is whether the sale should be by Government or by the Municipality & whether the lands should be sold subject to ground rents.

G.O no 1691 dated 6.6.11 & G.O no 3768 dated 23.12.11 may be consulted. The funds out of which the lands was acquired were obtained by a grant from Government but as granted out by Sir John Atkinson they become funds of the local body & hence the lands must be considered to have been acquired at the cost of the local body. The case therefore falls under class (3) in G.O no 1691 dated 6.6.11 & the lands will be subject to such ground rent or assessment as was levied on them before acquisition & if they were rent free, the immunity may be continued as a matter of grace but resale

Discussed with K. Mc. The portion of the road margin not required for the road should be disposed of by the Rebecca Collector who may sell them by private sale to adjoining purchasers subject to a suitable ground rent. Sale proceeds to be made over to the Municipality Draft.

E.R. 4/9/20

To Under Secretary

A draft order is submitted for approval
It may go to L + M for acceptance

CRP
15-9-20.

S.
20/9

17-9-20

H. M in this case said that
the sale proceeds might go to the
Municipality but in the general
note on the ground rent question
(now with L. etc) he said I think
that if ground rent is abandoned to
a Municipality the sale proceeds
in cases where acquisition had
been at the expense of Government
should be credited to Government.
It would perhaps be as well to
wind up this case till the
matter is finally decided.

EB 16/10/20

L. + etc. A. O

R 23 424

t 'P' in his note on p 11 ante, Th
use may lie over for the foreseen

1
10.20

Hwr
1.5-20

The Fin Relations Committee have recommended that groundrents may be made over to local bodies This recommendation is under Consideration in Rev. where orders have to issue.

2 So far as this case is Concerned, it is now proposed to introduce a new principle, viz, that Sale proceeds of lands acquired by local bodies from grants given by Govt should be credited to Govt if the ground rents be so

This proposal has the double effect of (1) placing the original grant, on the footing, as it were of a loan free of interest and (2) substituting for the original grant an annual grant equivalent to the groundrents made over

This is however a question to be Considered in detail, only after a decision

2 Apart from the ground rent questi
this case which relates to the sale of
road margins has also to be considered
in the light of the Full Relations Committee
recommendation in para 200 of their
report that road margins should
be exploited by local bodies by the Cons
truction of shops, godowns & plinths, in Tree
planning etc vide Secy's note on pp 4 & 5 an

If this recommendation is to be
acted upon, the sale of road-margins
may be open to objection, even though the
Collector
sale-proceeds are to be credited to the m/c

11/
11.12.20

Please see Rev Secy's note on p. 11- ante and the subsequent notes

2 The draft order relating to the transfer of ground rents to local bodies put up by the Rev Deptt is now in the Fin Deptt (after having been seen & accepted in this Deptt). The draft proposed to credit local bodies with sale proceeds of house sites also

3 Perhaps this case may be returned to the Rev. Deptt which put up the draft order below, with the request that it may again be sent to this Deptt, after the orders of the Rev. Deptt referred to in para. 2 above have assumed a final shape.

M
18.2.21

The file should lie over here.
K. V. V.
21.2.21.

[CW 3364] from the Collr of Bellary.
CNo 41457/19 dy 15th Feby. 1921.

As the Collr asks for early orders on the Case, perhaps the draft order below put up by the Rev Deptt may be accepted in this Deptt subject to the omission of the portion in red brackets in para 1 and

also of para. 2 thereof, as formal exclusion is not required in the case of lands acquired by the municipali which are to absolute property

The case may be returned to Rev. Acs. for issue of the draft. It seems unnecessary to await final orders on the question of transfer of ground rents to Local bodies.

MR
24.3.24

Please see the last sentence of the Rev. Sec's note on page 4 above the order in this case should be dispensed Rev may see this file

Rev
30.3

So far as I can gather, the cities referred to in para 1 of the draft are now municipal property. The fact that they were purchased with the aid of Govt funds does not make them any the less so.

If that is so, there is no reason why the encumbrance procedure should be adopted of the land being excluded from the DMA its being afterwards sold by the Crown and the sale proceeds being credited back to mineral funds. And I doubt if a notification merely excluding the land from the operation of the DMA will extinguish the Mineral Council's proprietary rights in the land. The proper authority to sell will then be the Council, though the Govt's right to levy royalties from the mines will not thereby be affected. Para 6 of the draft cannot therefore be acquiesced in by L&M.

42 28

Committee recommendation file.

8/4/43

To WS

The file is in the Law Dept. who have been asked to advise whether the proposal to hand over ground-rents to local bodies is within the sanctioning powers of this Govt. under the G.of I. Act.

Since returned

7/4/43

19/8
8-42

To W.S

The file regarding the Financial Relations Committee recommendations is ...ed below

S/Please see L&J note at PP15-16 supra

There is some force in the contention that the procedure is somewhat circuitous. So long as we get our ground-rents it makes no difference to us how the result is achieved.

12/4/43

Please see my notes on pages 8 & 11 above. The Collector of Bellary is pressing for orders as to the disposition of surplus rates on

the Graham Road. The questions whether they should be sold by the Officials of the Municipality (2) whether they should be subject to full ground rent or only to so much if any, as they were subject to before they were acquired & (3) whether the sale proceeds should go to Government (as the grant from which they were acquired was made by Government) or to the Municipality are for orders & are incidentally referred to in the main file about ground rents which is being separately submitted today.

The Hon Mr Sothunter's views were that in such cases full ground rent should be insisted as he was anxious to get all lands in Municipalities gradually on the same tenure. He considered that as the Municipality no longer needs the site for a road they should be excluded from the jurisdiction of the District Municipalities Act & as they were bought from Government funds should

recent. P. Government The L. & Ch. Dept. seem P. dessent from this recent view & think the lands should be sold by the Municipality.

It seems P. me that strictly a street alignment should be laid down under section 166 of the Municipalities Act, & the Government Council should then exclude the portions falling on the house side of the line which are not wanted for the street from the control of the Council under section 6 (2) and that the Council should then impose ground rent and sell the lands P. the ordinary house holders - It does not seem P. be a case for further auction.

If the lands are made liable to fully ground rent the premium or occupancy capital value is likely P. be small and it is a matter of little moment whether it is credited P. Provincial or Municipal funds. Strictly I think it should go to Government but possibly it is not a case which is much worth

disputing the Wm. Grind orders are
founded on the ground rent question
the ground rent will probably go
to the Municipality & if they knew
this, there would probably be little
feeling about it on the part, but
I fear we cannot announce this
now & at the same time I do
not think we can hold up disposal
of this case until the general question
is decided on which there
should be disposed. I advise
that in this particular case the
Collector should sell the land subject
to full ground rent but without auction
& order credit the sale proceeds
to the Municipality.

Ent 16/4/12

C (3)

CL (c).

- sale referred to in the correspondence is a sale
sale of the occupancy right of the lands. The
main question involved in this case is to whom

does this occupancy right belong. Does it belong to the municipality or to the Govt.? I am inclined to think that the municipality having purchased the occupancy right owns it With what funds, whether with its own surplus funds or with grants from Provincial Funds. The municipality was able to purchase the right does not appear to make the matter of any moment. If as I think the occupancy right belongs to the municipality I am afraid the sale by the Collector may not convey a valid title to the purchaser, inspite of the Govt. notification to exclude the portions of the road margin from the operation of the Madras Act viz municipalities Act. Is the right of occupancy a valuable right? If so can a notification by the Govt. compel a municipality to surrender a valuable right? These are however matters for decision by the Law Dept.

If the law does not that there can be no objection to a valid sale by the Collector, I agree to the Collector selling the occupancy right of the land & then the sale proceeds to the municipality.

As to the ground rent question, that depends upon the final orders of the Govt. on the recommendations of the Financial Relations Committee.

the Municipality for town improvement
When it ceases to be wanted by the
Municipality for the purpose of a
road it would seem to revert to
Government and the Electors sale
would I think be valid As stated
in my previous note full ground
rent is imposed the right of
occupancy is not a very valuable
right as the ground rent is so fixed
as to secure the full value of the
land in 25 years.

Ellah-

the Land became that of the municipality (§67) the new act which is of declaratory, the Land). If the Land is not regarded the municipality till the disputed Land is a question. Under §6, the new act the Corporation Com disposing as well as purchase. But this means of the purposes for which a municipality is Constituted. It is usual to give persons power to sell surplus Lands especially as the case of Railway Companies. I have not been able to find any such specific provision in the new act for that is. Whether this particular case is covered by §165 (see clb 9 sub sect 1 & subsect 4) the question being then municipal property, the municipality alone can sell & the sale proceeds thereof to them & I doubt if the law gives to which that Land alone from the municipal area; & that for which no application to the present case. I do not agree understand the statement that it is of ordinary rights that are sold. If that is meant that the Land is ordinary rights Land, it may be so the right I sold to which the Land has nothing to do with the question, ownership, the Land whether it belongs to the municipality or a private owner Unless the Council has agreed to convert it to Quarry, I presume the sale would be entitled to the assessment whether pro rata of ground rent or assessment of the sale may grant the assessment or ground rent to the municipality. Whether a different question.

C(3)'s note above is for Jerusalem.

The order may accordingly be Nat. Govern. have no objection to the Municipality disposing of the surplus lots ... such manner as they may think fit whether by auction or private sale the proceeds being credited to Municipal fund The lands should however be first assessed by the Chief to as suitable rate of ground rent based upon their estimated present value and intending purchasers should be given due notice thereof before sale is effected.

EH 12/5/24

C(2)

CL(2)

Unrelated 16.5.21
CNo. 2155 D/21.
Box No. M.C.2.
Advt.

I certainly feel that the Municipality should support the proposal.

L. 17.5.21.

Draft. as at A/ (Page 24).
L.S.G. should see

EV 20/5/21

L.S.G. U.

L.S.G. Dept

The proposal at A on page 24 may be accepted.

[illegible] 1.6.21

[illegible] 3.7.21

Secy

Reference should be made to the rule governing

Secretary's Office
Sir Hugh Stephenson
Please note
and file
9.7.21

3817
Undersecy
9.7.21

in D 479 ROM dated 5th
which is duly noted
and
KW
9/7
9.4.21

Revenue Dept.

To us.

KW 11.7.21

A draft order is submitted for approval. Extract of notes from page 24 onwards will be sent to L.S.G. for further action with reference to L.S.G. Secys note above

L. S.G. no 10128a-I/Rev
12.7.21.

D 17
12.7.21

REVENUE-D
3810

TON 12.7.21
SRS
13.7.21

Scott. II-10 (c)—35,105—9-2-20.

Received in the fair-copying section ....., Land (Bellary) Bellary Town - Sites

Copied by TKG 20-7-21. adjoining Grahams Road - Sale by Municipal council permitted

Examined by MG 21/7

Signed 21.7.21

Despatched 20-7-21

READ AGAIN G.O. No. ....., dated 192

" " " " ..... " 192

READ ALSO:—

(1) C. No. 1894 D/20 From the Collector of Bellary Rf. No. 5.C. 4145, dated 7-12- 1919

(2) " " Memo to Do. 8016-1-M dy 26-2-20

(3) " " " From Do. Rf. C. 4145 dy 1-4-20 192

(4) " " End. to the Bd. proc. (LR) No 1894 D/20-18 dy 3-5-20

(5) 3340 D/20 " From Do. Rem. 781 Misc. dy 1-7-20 192

ORDER.

No. 1615, dated 18-7- 192 1.

The Govt. have no objection to the Municipal Council, Bellary disposing of the surplus sites on either side of Graham's Road in such manner as they may think fit whether by auction or private sale, the proceeds being credited to municipal funds The lands should, however, be ~~advanced~~ assessed by the Collector to a suitable rate of ground-rent based upon their present estimated value and intending purchasers should be given due notice thereof before the